

**BEFORE THE PUBLIC UTILITIES COMMISSION OF THE STATE OF CALIFORNIA**

In the Matter of the Application of Fruitridge Vista Water Company, a trust, for an order:  
1) establishing a moratorium on new service connections; and 2) clarification of Tariff Rule 15 regarding payment for new facilities servicing new applicants.

Application 05-10-005  
(Filed October 7, 2005)

Sacramento Housing and Redevelopment  
Agency and the Housing Authority of the County  
of Sacramento,

Complainants,

vs.

Fruitridge Vista Water Company,

Defendant.

Case 05-10-007  
(Filed October 11, 2005)

County of Sacramento,

Complainant,

vs.

Fruitridge Vista Water Company,

Defendant.

Case 05-10-011  
(Filed October 7, 2005)

David R. Gonzalez & Donna L. Gonzalez,

Complainants,

vs.

Fruitridge Vista Water Company,

Defendant.

Case 05-09-011  
(Filed September 6, 2005)

Mercy Properties California,  Complainant,  vs.  Fruitridge Vista Water Company,  Defendant.	Case 05-09-012 (Filed September 6, 2005)
Victoria Station, LLC,  Complainant,  vs.  Fruitridge Vista Water Company,  Defendant.	Case 05-09-027 (Filed September 22, 2005)
Park Place LLC,  Complainant,  vs.  Fruitridge Vista Water Company,  Defendant.	Case 05-11-015 (Filed November 15, 2005)

**ADMINISTRATIVE LAW JUDGE’S RULING  
GRANTING MOTION TO MODIFY SETTLEMENT AGREEMENT**

The Settling Parties move for expedited approval of a modification of one paragraph of their settlement agreement to address a concern expressed in the Proposed Decision in this matter.

The modification would remove the reference to “contributions” from the state’s Drinking Water Treatment and Research Fund. Instead, it provides that in

the event that Fruitridge Vista Water Company is able to recover monies directly from alleged polluters in its pollution lawsuit, infrastructure improvements funded by these monies, up to \$5 million, would be added to rate base and earn a return of 10%.

The Division of Ratepayer Advocates (DRA) opposes the modification, stating that it is “old wine in a new bottle” and contending that it does not resolve the issue of whether the water utility should be permitted to increase rate base without the scrutiny that would be required in a general rate case. It also argues that the proposal is not in conformance with the Commission’s order in Decision 06-03-015 that prohibits rate-base treatment of state grants.

This ruling grants the motion to modify the settlement agreement. While I share DRA’s concern that this matter might have been dealt with differently in a general rate case, I am also persuaded that the overwhelming public interest served by the settlement agreement warrants exercise of the Commission’s broad discretion in dealing with court-ordered awards of damages to a small water company as the result of contamination litigation. The funds at issue would not be a state grant at the time they are repaid to the Drinking Water Treatment and Research Fund.

If and when such a court-ordered award is made (and it is by no means certain that it will be), the utility here will forgo monies it presumably would have used for plant investment in order to repay the state’s Drinking Water Treatment and Research Fund. Moreover, since the settlement agreement obligates the utility to destroy four of its 17 wells that allegedly were polluted through no fault of the utility, it would seem manifestly just that a court-ordered pollution award permit the utility to restore to rate base the equivalent value of its lost wells.

Again, a general rate case would have permitted closer scrutiny of the effects of these events on rate base. But the Commission does not have a general rate case before it. It has a proposed settlement, the benefits of which – restoring water pressure necessary for health and fire safety and permitting welcome investments in low-cost housing, recreation and new jobs and businesses – are not seriously contested by any party. A rejection of the settlement, or a withdrawal from the settlement if its give-and-take terms are sought to be altered, would leave the Commission with little alternative but to grant an immediate moratorium on new connections and stringent water conservation measures to preserve pressure levels this summer.

This ruling makes one addition to the approval of the settling parties' motion. I intend to add an ordering paragraph to the Proposed Decision providing that, while a 10% return on such invested funds will apply, nothing in the settlement agreement will preclude the utility from seeking a return on that investment commensurate with a higher return if such higher return is granted in a subsequent rate case. (The utility's current authorized rate of return is 11%.)

For good cause shown, therefore, **IT IS RULED** that:

1. The motion of Settling Parties to Modify the Settlement on an Expedited Basis is granted.
2. The modification will be noted in the Proposed Decision and will be memorialized in the settlement agreement attached to the Proposed Decision.

Dated April 11, 2006, at San Francisco, California.

/s/ GLEN WALKER  
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Glen Walker  
Administrative Law Judge

## **CERTIFICATE OF SERVICE**

I certify that I have by mail this day served a true copy of the original attached Administrative Law Judge's Ruling Granting Motion to Modify Settlement Agreement on all parties of record in this proceeding or their attorneys of record.

Dated April 11, 2006, at San Francisco, California.

/s/ FANNIE SID

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Fannie Sid

## **N O T I C E**

Parties should notify the Process Office, Public Utilities Commission, 505 Van Ness Avenue, Room 2000, San Francisco, CA 94102, of any change of address to insure that they continue to receive documents. You must indicate the proceeding number on the service list on which your name appears.